

<p>CITY OF SAN JOSÉ, CALIFORNIA          Department of Planning, Building and Code Enforcement          801 North First Street, Room 400          San José, California 95110-1795</p> <p style="text-align: center;"><b>STAFF REPORT</b></p>	Hearing Date/Agenda Number P.C. 7/28/04      Item: 3.a.
	File Number CPA94-018-01
	Application Type Conditional Use Permit
	Council District 10
	Planning Area Edenvale
	Assessor's Parcel Number(s) 458-13-034
PROJECT DESCRIPTION <span style="float: right;">Completed by: Lesley Xavier</span>	
Location: Northeast corner of Blossom Hill Road and Winfield Boulevard	
Gross Acreage: 1.36      Net Acreage: 1.36      Net Density: n/a	
Existing Zoning: CG Commercial General      Existing Use: Financial Institution with a drive-through ATM and other commercial with a drive-through facility.	
Proposed Zoning: No change      Proposed Use: To allow the use of an existing drive-through facility by a beverage service.	
GENERAL PLAN <span style="float: right;">Completed by: LX</span>	
Land Use/Transportation Diagram Designation Regional Commercial      Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations	
SURROUNDING LAND USES AND ZONING <span style="float: right;">Completed by: LX</span>	
North: Commercial/Shopping Center	A(PD) Planned Development
East: Commercial/Shopping Center	A(PD) Planned Development
South: Commercial/Shopping Center	CG Commercial General
West: Commercial	A(PD) Planned Development
ENVIRONMENTAL STATUS <span style="float: right;">Completed by: LX</span>	
<input type="checkbox"/> Environmental Impact Report adopted	<input checked="" type="checkbox"/> Exempt

CONTACT/ APPLICANT	OWNER	
Starbucks Coffee Company Attn: Zeden Jones 455 North Point, 2 <sup>nd</sup> Floor San Francisco, CA 94133	Bank of America Attn: J.M. Mangrum 1455 Market Street San Francisco, CA 94103	

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PUBLIC AGENCY COMMENTS RECEIVED	Completed by: LX
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Department of Public Works

✍ See attached.

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Other Departments and Agencies

✍ Fire Department.

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GENERAL CORRESPONDENCE
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✍ None.

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ANALYSIS AND RECOMMENDATIONS
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## BACKGROUND

The applicant, Starbucks Coffee Company, is requesting a Conditional Use Permit Amendment to allow for the use of an existing drive-through facility located at the northeast corner of Blossom Hill Road and Winfield Boulevard, adjacent to the Oakridge Mall shopping center. The drive-through facility is located in a portion of a one-story building, which has two tenant spaces, one of which houses a Bank of America. The Zoning Ordinance requires a Conditional Use Permit for drive-through uses in the CG Commercial General Zoning District.

There are two existing drive-through lanes and one escape lane for the building. The Bank of America utilizes the outside lane for a drive-up ATM. The applicant proposes to utilize the inside lane, which has a drive-up window. Both of the lanes are accessed from the northwest corner of the building and exit at the east side of the building.

The Director of Planning has determined that this project is exempt from environmental review under Section 15303(a) of the provisions of the California Environmental Quality Act (CEQA), existing facilities involving little or no expansion of use including interior or exterior alterations. The proposed project is exempt in that it consists of the use of an existing drive-through facility, which is consistent with the type of projects exempt from CEQA, under this category.

## ANALYSIS

The project was analyzed to determine its conformance to City Council Policy 6-10, Criteria for the Review of Drive-Through Uses.

### Conformance to City Council Policy 6-10 Criteria for the Review of Drive-Through Uses

The project as proposed conforms to all of the applicable elements of the Council Policy for Drive-Through uses including traffic, noise, hours of operation, etc. Pursuant to this policy, the drive-through lane is situated so that patrons will not negatively impact the intersection of Blossom Hill Road and Winfield Boulevard. The lane has a stacking capability for up to approximately 11 cars, three more cars than required by the policy. In addition, the drive-through lane is situated so that overflow from stacking will not spill onto any public streets. The project is not located adjacent to any residential uses or any other drive-through uses. Therefore, staff finds that the proposed project is consistent with the Criteria for the Review of Drive-Through Uses City Council Policy in terms of separation from other drive-through and residential uses, circulation, and stacking.



## PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the subject site. The Planning Commission Agenda is posted on the City of San José

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Regional Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the CG Commercial General Zoning District.
3. The subject site is 1.36-acres in size and is developed with a single building with two tenant spaces and a surface parking lot.
4. The proposed project is to allow for the use of an existing drive-through facility.
5. The site is surrounded on all four sides by commercial uses; there are no residential or other drive-through uses adjacent to the site.
6. Under the provisions of Section 15303(a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the site's General Plan Land Use Transportation Diagram designation of Regional Commercial.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-10: Criteria for the Review of Drive-Through Uses.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning

2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

### **CONDITIONS PRECEDENT**

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

### **CONCURRENT CONDITIONS**

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

4. **Operating Hours.** Daily from 6:00 a.m. to Midnight.
5. **Noise.** Noise levels shall not exceed 60 decibels at the closest property line.
6. **Lighting.** This permit allows no new on-site lighting.
7. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
8. **Public Works Clearance for Building Permits.** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
  - a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
  - b. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
  - c. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Blossom Hill Road and Winfield Boulevard prior to issuance of a Public Works clearance. Twenty-five (25) percent of the base fee in place at the time of payment will be due. (Currently, the base fee is \$224 per linear foot of frontage.)
  - d. **Landscape:**
    - 1) Installation of street trees within the public right-of-way along the entire street frontage per City standards may be required.
    - 2) The locations of the street trees will be determined at the street improvement stage. Street

10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, structures, fencing, and wall surfaces within 48 hours of defacement.

#### **CONDITIONS SUBSEQUENT**

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two (2) years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.